

**ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE**  
**REGULAR MEETING ACTION MINUTES**  
**OCTOBER 14, 2015**

**MEMBERS PRESENT:** Matthew Carney  
Gustavo Gonzalez  
Joshua Howard  
Aimee Inglis  
Roberta Moore  
Melissa Morris  
Elizabeth Neely  
Michael Pierce  
Eloise Rosenblatt  
Elisha St. Laurent  
Tom Scott – arrived at 6:11

**MEMBERS ABSENT:** John Hyjer

<b>STAFF:</b>	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

**(a) Call to Order/Orders of the Day**—Shawn Spano opened the meeting at 6:06pm.

**(b) Introductions**— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

**(c) Unfinished business from October 7th meeting, if any (Housing Staff, Facilitator)**

Mr. Chen presented information on the inclusion of duplexes in the ARO.

Focus Question: Is the inclusion of duplexes consistent with the goals and purpose of the ARO?

Mr. Howard asked if the number of duplexes presented were in San Jose proper, or in unincorporated county pockets were included in the dataset.

Mr. Pierce asked for clarification on whether a single family home that has a granny unit added to it would classify it as a duplex.

Ms. Morales-Ferrand answered that it would not.

Ms. Morris explained that neither new construction nor any changes to a single family home residence would be allowed to be restricted by rent control under Costa-Hawkins.

## **DRAFT**

Mr. Scott –How would you treat an old house with two units that was never permitted?

Mr. Pinjic answered that if the property was rented for more than 30 days it would be subject to rent control.

Ms. Moore asked if duplexes would be allowed up to 1995 and how many units were built before 1979.

Ms. Morales-Ferrand answered that the City is allowed to go up to 1995 because duplexes were never exempted, and instead were originally excluded.

Ms. Inglis answered that in San Jose the majority of duplexes were built before 1979.

Ms. St. Laurent asked if the conversion of a single family home to the addition of a duplex was a zoning question.

Ms. Morales-Ferrand answered that the addition of a new unit to a single family home would be not trigger rent control

Ms. Morris answered the focus question to say that yes, the inclusion of duplexes in the ARO does meet the goals and purpose of the ARO because the inclusion significantly helps San Jose families by increasing the number of units available by up to roughly 20%. The inclusion of duplexes is allowed under Costa-Hawkins.

Ms. Rosenblatt added that in the New York Times ran a piece this morning speaking to the housing crisis in Oakland and that she hoped that we would have a sense of neighborliness in San Jose. Citing a statistic – 65% of people nationally own their own homes, but ownership rate in the bay area is 54%. She believes that broadening the availability of the ARO to duplexes is consistent with the goals and the mission of the ARO.

Mr. Gonzales noted that he was concerned that the 43,000 universe of ARO units did not include the number of exempted uses/units. One of the unintended consequences of including duplexes will be that owners will raise the rents as a knee-jerk reaction to the new restriction and families will be out on the street.

Ms. St. Laurent: Believes that the inclusion of duplexes in the ARO is consistent with the goals and purpose. The Housing Authority has a huge backlog of people in need because people can't afford rent. That number will grow if we don't cap rents now.

Mr. Pierce agrees with Ms. St. Laurent but is concerned that ARO does not add another unit to the housing stock because those units are already occupied by people, whether there is a restriction or not. We need to build more housing and new units.

Ms. St. Laurent said that the City is building thousands of homes right now and it's not enough. Neighborhoods are gentrifying now and rents are out of reach for lower income individuals and families.

Ms. Morris pushed back on the dichotomy between increasing supply and preventing the displacement of tenants through rent control provisions, when both can be accomplished. The City needs protections for tenants as much as it needs new supply.

## DRAFT

Mr. Scott stated that if we're asking ourselves to consider and find consistency with the goals of the ARO from 1979 then we should leave the ordinance the way it is because they were excluded to begin with. Believes inclusion of duplexes is a bad idea because the product is too much like single family homes.

Ms. Moore said that there are short and long term impacts. SF has had rent control for a long time and it doesn't have housing available for its service workers. People think that landlords are greedy but she bought her building in 2010 and it won't make money until 2025. Raised a fairness question about owners who purchased a duplex without a restriction but will be forced to sell a depressed property because of the new income restriction.

Mr. Carney said that from the perspective of the families he works with who are often in crisis and moving out of the city. Landowners are part of the community and shape the way the community could look in the years ahead.

Ms. Inglis said that part of the original intent to carve out single family homes statewide was because the product was owned by small time landlords. Today many single family homes and duplexes are owned by larger investment corporations. Including duplexes would be consistent with the original intent of the ARO. 1,500 of the current duplexes are owner-occupied. Of sales of buildings in San Jose, 198 were duplexes which raises the question of speculation.

Ms. Morris clarified that the analogy used previously about selling a property under rent control controls the rent amount or sale price is overstated due to the inclusion of vacancy decontrol.

Ms. Moore stated a concern that if we squeeze the small investor too much by adding restrictions they will sell to large investors. Would like the following question answered: What is the size of the investor that's investing in duplexes?

Mr. Scott said he works with a lot of small investors and he often sees small owners who don't always keep their buildings up but they do keep their rents low. Adding restrictions will trigger landlords to raise rents before the restrictions are in place.

Mr. Howard asked staff if the number of calls from duplex residents are currently being tracked. Stated that the real issue is that adding duplexes doesn't add one new unit of housing. Adding duplexes up to 1995 creates a two-tear restriction system in the ARO because buildings of 3 or more units are already restricted by the 1979 ceiling. Shouldn't do anything to dissuade investment. Not sure that including duplexes is legally consistent with Costa-Hawkins.

Mr. Gonzalez said that he's never seen a large investor come in and look for duplexes as investment properties. Families buy the units and including duplexes takes away the American dream. Concerns about data, specifically about rent amounts.

Ms. Moore: Slide 9 – question about number of staff that would be needed to monitor duplexes. Can that money go to building more affordable housing?

Ms. Neely is a renter downtown and is paying \$1800 for a studio. Rents aren't necessarily overstated because submarkets differ in price.

## **DRAFT**

Ms. Morris wants to focus on the inclusion of duplexes. Hearing that some landlords will leave the market if duplexes are included but then there are landlords who voluntarily keep rents low. Wonders if a limitation on rent increases would impact a good landlord's decision to keep rents low. Renter protections need to be expanded and some of those renters live in duplexes.

Mr. Carney is a renter in a complex around 100 units, where rent is just under \$2,000 a month. Agrees that rents aren't being overstated.

Mr. Pierce offered that there is a split market in San Jose with ARO units and market rate units. Development costs to build new market rate construction is high, which is one of the drivers of rent. Is hearing that there is consensus of a problem in the housing market. The issue is about who should pay for the solution. Everyone here wants to help.

Ms. Moore offered that she has three priorities as a building owner: cash flow, stability, and operating a clean and safe building. Responding to Ms. Morris' comment that ARO does not impact good owners but it does impact bad owners. ARO impacts all owners negatively. Agrees that the City needs to go after slumlords, but adding restrictions on top of old restrictions doesn't help that effort.

Mr. Carney, in response to Mr. Pierce's comments: renters need consistency in how much the rent can be increased, not necessarily a supplement to pay rent. When unexpected rent increases happen people are displaced.

Ms. Inglis said that she's excited to talk about rent control. Investment in single family homes is not related to this. Believes that rent control would do a better job regulating if there weren't so many carve outs.

Mr. Scott predicts that small owners will leave the market if duplexed are included under the ARO.

Ms. Neely said that if we believe that good owners naturally keep rents low and there wouldn't likely be a behavioral change with inclusion in the ARO, then what is the big impact?

Mr. Pierce offered an example of health care/employment costs that impact a management company's bottom line and that the ARO may not have the flexibility to cover their annual cost of doing business.

Ms. Moore said that adding duplexes really hits the mom and pop investors.

### **(d) Presentation and discussion of Consultant Scope of Work, including background information, contextual information, financial outcomes and fair returns (Housing Staff, Facilitator)**

Mr. Chen presented information on the scope of work for the consultant. (Roughly 7:20pm)

#### ***PUBLIC COMMENT***

Owner: Key issue is asking rent and actual rent.

Owner: CSJ Rent Control is 36 years old. Discussion here is drastic change and impacts property owners and values by reducing rent incomes and may push owners out of existing market.

Owner: Is formal notice to owners necessary? Called out of order.

## **DRAFT**

Owner Advocate: Danger of rent control taking unit off the market until economic upturn. The economic study should consider if units were left vacant during economic downturn.

Owner: Question – how will the consultant’s work and the advisory committee’s work will be weighed against one another as the work is presented to the City Council. Vacant units are big concern for owners. People will learn how to game the rules on both sides of the aisle.

Owner: Many people are requesting more information but people are meeting and voting on items prior to data being available. Asking rents and actual rents are very different and many small landlords don’t post rents on websites. Asked landlords in audience to provide rental data to check the information from the consultant.

Owner: Slide 17 – turnover. Analyze voluntary turnover as opposed to non-voluntary turnover. Add to analysis: impact fees and other development fees on cost of business.

Owner: Focus on age of units. Older units are closer to the end of their life and have larger capital costs. Need accurate sample of rental housing to be statistically representative.

Tenant: Lived in ARO unit for 15 years without a rent increase. During the economic downturn many people made homeless.

Owner: Compare the # of ARO sales transactions v debt service petitions: In analyzing income property, you look at the rent rolls to understand if the building is depressed. Concern over duplex inclusion.

Owner: Rent control isn’t new but new studies refute the effectiveness of rent control. Consultant should do empirical study. Should also look at the period after the dot-com boom. Rents dropped 30% after bust and took 10 years to return to pre dot-com rents.

Owner: Whose hiring consultants and what is their objective? What is the cost of the study? Results should be published before the next Council meeting.

## ***ADVISORY COMMITTEE***

Ms. Rosenblatt: interested in knowing what the turnover has been and how that impacts rents. Interest in desirable tenants – who are those tenants and which groups are being displaced? Where are they moving?

Ms. Moore: Requests that consultant look back to 1999 with a market condition overlay, including interest rate, vacancy rate and employment. Also, age of owners. ARO units only: % increases, # of increases, cause for evictions that were no cause

Mr. Gonzalez: Provide petition information and statistics.

Ms. Inglis: add in the cost of displacement and/or homelessness if possible.

Mr. Scott: Fair returns: important to look at outcomes of other cities with AROs. How does a consultant determine what a fair return is for an owner?

## **DRAFT**

Mr. Pierce: Task 3 – interesting and relevant if there was a correlation between for-sale and rental housing; length of ownership and age of property (property tax rates); impact on smaller properties which are self-managed and have lower costs – need to try and disaggregate. Slide 20: appreciation is vacuous because it isn't realized until the property is sold, which raises the cost base.

Mr. Howard: task 1 & 2: important to look at market rate rents and in place rents, how to do an economic analysis on property values under ARO when rental income is reduced, including assessed property value; changes over time in the properties under ARO with tenants.

Ms. Rosenblatt: wonders if consultant will do any research on zoning and available areas for development.

Ms. Morris: consultant scope is very ambitious. Wonders if consultants will be looking at household size, children in the HH and persons with disabilities. Will there be any data on the rent burden

Mr. Gonzalez: Debt service needs to be factored in as do interest rates. Data is going to impact how committee will think and feel about annual increase conversation. Conversations without data are uninformed. Panel should have alternate members to account for when people aren't available.

Mr. Chen and Ms. Morales Ferrand explained that the upcoming meeting on Annual Allowable Increase will be a discussion of the standards, not a decision on what the rate should be.

Ms. Moore: Look at age of building.

### **(e) Open Forum**

Owner: Number one issue is displacement and providing people a consistent and predictable rent. City is landlord but they don't own property.

Owner: Feels sorry for people who are being evicted but rent control doesn't solve problem. If owners lose money – costs are increasing – owners will have to increase rents for new tenants or they will sell the unit.

Owner: Small property owners from San Francisco, costs are increasing. Salaries are increasing so owners should be able to increase rent. Need 8% to cover cost of properties. Retirement investment.

Owner: Broker for 45 years. Question for committee: does anyone who believes inclusion of duplexes own property?

Owner: Mother with full time job and small landlord. Treats tenants as a customer, with customer satisfaction is highest priority. Rental agreements should be between landlord and tenants – not government.

Owner: Landlords should be notified of this process. City should notify all landlords.

Owner: Rent control should be responsive to market downturns.

## **DRAFT**

Owner: Affordability issue is real but rent control is not the solution. When there are 100 people and only 50 units there will always be an affordability problem.

Owner: Rent control is already fair. Bought run-down property and spent his own money to bring the units up. It will take 5-7 years to bring rents up to a reasonable level and knows that in the long run he'll make a profit. Had SF ARO property and could never raise rents.

Owner: Fair rent control now. Without control, wild fluctuations happen like in MV. With strict rent control, owners can't afford to maintain properties. San Jose's rent control ordinance is just right.

Tenant: Need housing. Solution is rent control. Landlords are evicting people because of market prices. Why no relocation?

Owner: Lives in Los Altos. Economist and Engineer. Rent control is bad public policy – doesn't control rents. Also a lawyer – just cause evictions gives tenants too much leverage.

Owner: Property manager for 8 years. Works closely with HUD VASH and Bright Future program. Existing landlords may not rent to disadvantaged tenants under new restrictions.

Owner: From San Francisco. Envious of SJ rent control. Flexibility is important. Politicians should not make economic policies. Politicians sensationalize evictions.

Tenant Advocate: Housing crisis is real. Since 2010 rent increases are going on. Free markets only exist when there are regulations that exist. Regulations are lax in San Jose.

Owner: Why now? In business you need some level of predictability. Lowering the annual allowable increase reduces predictability. What is the motivation behind Councilmember Perez's proposal?

Owner: Big question is will the questions posed be sent to consultants. Why don't we ask ARO owners to provide their rent rolls?

Owner: Important to differentiate between ARO and non-ARO. Costs to duplex: increases over two years – roughly 7.5% increase over three duplex properties.

Owner: Issue of granny units/second units. Sold older home with detached garage – everything to code. City determined that the dwelling was unlawful. City should look into code enforcement of granny unit.

Owner: Bought duplex in San Jose a year ago. One unit was neglected. Invested to repair both units. Families moved into the units and one started a business. Won't buy a second duplex in San Jose.

Owner: Reports on rent control state that regulations only benefit the existing residents. This displaces future residents who can't afford to live in the area.

Owner: Fair value of rent increases is really the real return of the owners hard work. Rent control is a socialist policy. Destroying the fabric of free enterprise.

## **DRAFT**

Owner: Was a social worker for many years. Keep an open mind to learn from the real estate experts. Duplexes are owned by mom and pops. If included, should have a sunset clause triggered by vacancy rates.

Tenant: Has three jobs. Housing crisis is real. People are living in the streets and in their cars. Evictions without cause are happening.

Owner: Agent in San Jose. Works with a lot of property owners. Duplex owners manage properties themselves and more restrictions will destroy American dream.

**(f) Adjourn** Facilitator Shawn Spano adjourned the meeting at 8:38pm.





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Item # E  
Número de artículo

With thousands of people in San Jose living  
on the streets, in cars, tenants getting  
eviction notices w/o cause - except for  
dollar signs in the eyes of the landlords  
we cannot afford to wait to implement  
a strong rent control. Tenants in a downtown  
rent controlled unit are facing evictions  
after going through channels to try to  
change uninhabitable living conditions  
with their landlord - he turned around and  
**over continuado**

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served them with evictions - because  
tenants have very little actual  
protections. These tenants and  
many more like them are afraid  
to speak up - they live in  
uninhabitable apartments with  
safety hazards and still afraid  
to complain so that they  
don't get evicted, left without  
anywhere to go

**thank you**

**gracias**

## Share Your Comments

Comparta sus comentarios

Item # \_\_\_\_\_

Número de artículo

- ☐ RC on the rent increase value is going against the prosperity of SJ economy.
- ☐ 93% of 464 economists surveyed said 'A ceiling on the rents reduces the quality and quantity of housing available'. (1992 issue of "The American Economic Review")
- ☐ With RC, your children will have trouble to find a house to live in. Review over continuado

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**gracias**



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## Share Your Comments

### Comparta sus comentarios

Item # C  
Número de artículo

Share 9% increase of  
our expenses is 7.52%  
to 8.91%

over continuado

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Item # 12  
Número de artículo

~~The next is to~~ Why now?  
Why change a 36 year old ruling?  
would like to understand the  
motivations and statistical evidence  
behind Mr. Peralez proposal.

over continuado

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Item # 45  
Número de artículo

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Analyses include <sup>allow flexibility</sup> market, population change, <sup>simplify</sup> (baby boomers)

Rental business s/b simple

- limit litigation

- more rules more lawsuits

Top priority - keep regular turnover = balance

Consider temporary conditions

Inform public on rental data to prevent political  
sensationalism <sup>balanced</sup> → wrong policies. over continuado

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Item # \_\_\_\_\_

Número de artículo

- ① Rent control is bad public policy as it not only fails to solve the problem, but also makes it worse — suppressing the supply
- ② It is unfair — likely a Taking — to let small investors/landlords pay the subsidies and get penalized
- ③ tenants will suffer further — landlords will become very picky in selecting tenants
- over continuado

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Item # C  
Número de artículo

After the two years lease, tenants are able to raise rent increase, but tenants can't bring a roommate, the question is, why a tenant can't have no force to follow the original lease, but tenants are? why tenants can't bring a roommate?

Looks like San Jose Law are design to oppress tenants, and to gives landlord all the power

I don't want a tenant have the **over continuado** right to move out!

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Item #

E

Número de artículo

IT IS POSSIBLE TO BUY BLIGHTED PROPERTY  
AND FIX IT UP AND GET A FAIR RETURN  
IF SAN JOSE'S CURRENT, FAIR RENT  
CONTROL. IT MAY TAKE 5 TO 7 YEARS TO  
GET THE RENT UP TO MARKET, BUT  
EVERYONE BENEFITS. IF RENT RAISES  
WERE SIGNIFICANTLY REDUCED, IT  
WOULD NOT BE ECONOMIC TO FIX  
RUN DOWN ARO PROPERTIES.

over continuado

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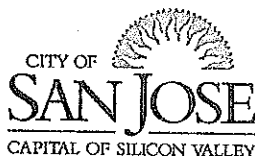
☐ I am a member of the public. Soy un miembro del public.

- RECENTLY WE BOUGHT A SEVERELY RUN DOWN BUILDING. WE PUT \$100,000 INTO MAKING THE UNITS MEET CODE ENFORCEMENT REQUIREMENTS. RENTS WERE AT 50% OF MARKET.
- IT WILL TAKE 5 OR 6 YEARS MINIMUM TO BREAK EVEN, BUT THE NEIGHBORHOOD WILL BE MUCH BETTER & RESIDENTS WILL HAVE A HOME WORTH LIVING IN.
- WITH LOWER ALLOWABLE RENT RAISES, THE PROPERTY WOULD CONTINUE TO DETERIORATE.

**thank you**

**gracias**





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## Share Your Comments

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Item #

E

Número de artículo

SAN JOSE HAS A FAIR RENT CONTROL  
ORDINANCE. WITHOUT CONTROL WILD  
FLUCTUATIONS OCCUR LIKE IN MTN VIEW.  
• WITH OPPRESSIVE LAWS LIKE SAN  
FRANCISCO UNITS CONTINUE TO  
DETERIORATE. OWNERS CANT AFFORD  
TO MAKE NECESSARY REPAIRS.  
• WITH WATER, ELECTRICITY, REFUSE COSTS  
RASING RAPIDLY, OWNERS NEED TO  
BE ABLE TO MAKE REASONABLE  
RENT INCREASES

over continuado

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• SAN JOSE'S CURRETT LAW IS JUST RIGHT. IT PREVENTS RAPID RISES IN INFLATIONARY TIMES, BUT LETS OWNERS RECOVER THEIR INCREASED COSTS IN A REASONABLE MANNER.

**thank you**

**gracias**



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Item # 17 E.  
Número de artículo

RC do not solve the inventory  
problem.

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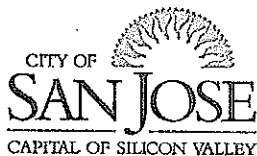
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**thank you**

**gracias**



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## Share Your Comments Comparta sus comentarios

Item # D&E  
Número de artículo

The property owners are.  
We're small investors, not rich ppl. we work really  
hard to be able to put money in for potential gain.  
and lots of us are negative on the spreadsheet. It's  
gonna be horrible if RC is happening, as the cost is  
going up, the owner will lose more money, and less  
ppl would buy property. Nobody would get in a  
loss business.

over continuado

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## About You Acerca de usted

PLEASE PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre : Anna Li

Email Email : \_\_\_\_\_

check all that apply marque todo lo que corresponda

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Vivo en un apartamento alquiler ordenanza.
- ☐ I own or operate an ARO apartment  
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- ☐ I am a member of the public. Soy un miembro del publico.

- keep rent low w/ no worry, one day <sup>the owners will be forced</sup> ~~if need~~ to increase the rent <sup>to cover</sup> ~~when~~ the cost increase, not upon needs, every yr. ~~if needed, e.g.~~

I didn't raise rent for 4 yrs just to keep the good tenants.

- When we say RC, it is to control the rent increase, ~~the~~ RC is passed, it needs to address the rent decrease control to cover the market down side. to be fair. Is there a regulation to control rent not decrease more than <sup>if</sup> ~~if~~

- If the rent control is passed, the same logic should apply to other small business. e.g. restaurants, <sup>owners</sup> is there a regulation to not allow restaurants to raise the dishes price?

nowaday, with all the costs added on, a decent dinner costs \$15-20 vs. \$10 a few yr ago. This is the same to property owners. The city can NOT to ask the owners to swallow the costs increasement.

G 1.1.1 1.1

R 1.1 1.1 1.1

thank you

gracias

- no mortgage & 100% down is not big investment company. Most property owners I know have to get a line of credit from primary or residence elsewhere and do all cash purchase because that is the only way they can win the bid purchase contract for a house

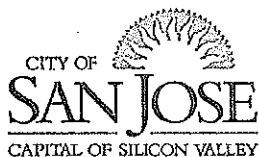
- in order to have more rental units on market, we need to make rental business easy to enter. rent control will only scare small business owner away. This will only make less units. ~~not~~ Market is only good if there are many competition.

- there is no price control for restaurants, supermarkets, grocer. Free market and competition keep them from asking unreasonable prices. Restaurants I ate at in the same plazas have increased price 300% since 2000 due to inflation and cost. Rental owners are also subject to same inflation. With rent control they can never catch up to cost inflation. This will put rental business to loss and force them to exit market.

- I know many average Joe or Jane with W2 salary who tried to do ~~rental~~ invest in rental business so they can make some money for kids to go to college. Most of them quit because they ran into bad tenants or unexpected high costs. Most have a horror story to tell. Rent control will only ~~not~~ prevent these pope and mama property owners from join the rental market and provide more units.

thank you

gracias



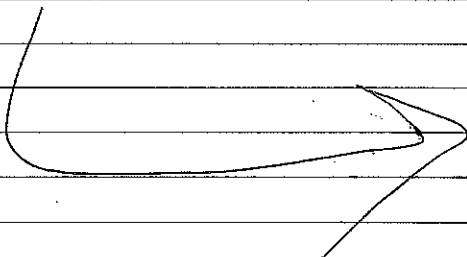
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Item # e  
Número de artículo

*See back side*



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## About You Acerca de usted

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Name Nombre : Selen

Email Email : \_\_\_\_\_

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## Share Your Comments Comparta sus comentarios

Item # 2  
Número de artículo

Factor Age of user & capital items  
replacement cooking at appliances in  
scope of consultation

over continuado

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Name Nombre: David Wong

Email Email: \_\_\_\_\_

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## Share Your Comments

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Item # D  
Número de artículo

Regarding Turnover, Can they  
Analyze both voluntary turn  
over and non voluntary of the  
Tenant.

over continuado

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Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

## About You Acerca de usted

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Name Nombre: Myron Von Raesfeld

Email Email: MyronVonRaesfeld@SRCGlobal.net

check all that apply marque todo lo que corresponda

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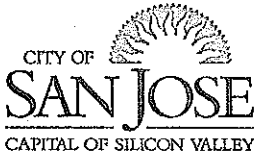
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## Share Your Comments Comparta sus comentarios

Item # 4  
Número de artículo

*Scope of work*

*How will the consultants work  
be presented and weighted*

*vs*

*The work of this ARO  
Committee*

*over* **continúado**

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Wayne.Chen@sanjoseca.gov OR Ann.Grabowski@sanjoseca.gov

## About You Acerca de usted

PLEASE PRINT CLEARLY IMPRIMIR CLARAMENTE

Name Nombre : Rob Moore

Email Email : \_\_\_\_\_

check all that apply marque todo lo que corresponda

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Lined area for writing.

**thank you**

**gracias**



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## Share Your Comments

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Item #

C

Número de artículo

We are in a market economic  
Rent

Barbara Kuang

over continuado

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**gracias**